

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

BRUCE W. PARRISH,

Defendant-Appellant.

UNPUBLISHED

July 27, 1999

No. 211344

Oakland Circuit Court

LC No. 95-137963 FH

Before: Sawyer, P.J., and Holbrook, Jr., and W. E. Collette,* JJ.

MEMORANDUM.

Defendant appeals by delayed leave granted his plea-based convictions of receiving and concealing stolen property over \$100, MCL 750.535a; MSA 28.803(1), fleeing and eluding, MCL 257.602a; MSA 9.2302(1), driving while license suspended, MCL 257.904; MSA 9.2604, and habitual offender, third offense, MCL 769.11; MSA 28.1083. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant pleaded guilty after the trial court indicated that a sentence of no more than one year in jail, with work release, would be appropriate. *People v Cobbs*, 443 Mich 276; 505 NW2d 208 (1993). When defendant did not appear for sentencing, the court issued a bench warrant. Defendant was arrested more than one year after the date originally set for sentencing. The court sentenced defendant to concurrent terms of one and one-half to ten years in prison for receiving and concealing, one year in jail for fleeing and eluding, and ninety days in jail for driving while license suspended, with credit for seventy-six days. Defendant did not object to the sentence or seek to withdraw his plea. Subsequently, the trial court denied defendant's motion to enforce the agreement or to withdraw the plea.

We review a trial court's decision on a motion to withdraw a guilty plea made after sentencing for an abuse of discretion resulting in a miscarriage of justice. *People v Ward*, 230 Mich App 95, 98; 583 NW2d 495 (1998).

* Circuit judge, sitting on the Court of Appeals by assignment.

Defendant argues that pursuant to *Cobbs, supra*, he was entitled to withdraw his plea when the trial court exceeded the sentencing agreement, notwithstanding his failure to appear for sentencing. We disagree. The right to withdraw a plea is not absolute, and can be waived if intervening factors occur between the plea and the sentencing. See, e.g., *People v Kean*, 204 Mich App 533; 516 NW2d 128 (1994), and *People v Garvin*, 159 Mich App 38; 406 NW2d 469 (1987). Here, the clear intent of the agreement was that no intervening factors, such as non-appearance, would occur between the plea and sentencing. See *Garvin, supra*, at 43.

Finally, defendant argues that counsel rendered ineffective assistance by failing to object at sentencing and to assert that he had the absolute right to withdraw his plea. We disagree. Such an objection would have been without merit. *Kean, supra*; *Garvin, supra*. Counsel is not required to raise meritless objections. *People v Darden*, 230 Mich App 597, 605; 585 NW2d 27 (1998). Defendant has demonstrated neither deficient conduct by counsel, nor resulting prejudice. *People v Pickens*, 446 Mich 298, 314; 521 NW2d 797 (1994).

Affirmed.

/s/ David H. Sawyer

/s/ Donald E. Holbrook, Jr.

/s/ William E. Collette